

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RICK McCONNELL,

Plaintiff,

v.

1:15-cv-01094 JCH-LF

THE GEO GROUP, INC., et al.

Defendants.

ORDER GRANTING MOTION TO COMPEL

THIS MATTER comes before the Court on defendant The GEO Group, Inc.'s ("GEO") renewed motion to compel plaintiff Rick McConnell to respond to its first set of requests for production, filed on November 21, 2017. Doc. 103. Defendant Corizon Medical Services filed a notice of joinder in GEO's renewed motion to compel. Doc. 104. Plaintiff Rick McConnell did not file a response to the renewed motion, and GEO filed a notice of completion of briefing on December 14, 2017. Doc. 107. The Court finds that the motion is well taken and will grant it.

GEO filed its initial motion to compel addressing the same matter on November 9, 2016. Doc. 64. Plaintiff filed a response to that motion, Doc. 65, and GEO filed a notice of completion of briefing without filing a reply, Doc. 66.

GEO served McConnell with requests for production on September 22, 2016. Doc. 52. Five days later, on September 27, 2016, defendants James Rigdon, John Sanchez, Anthony Romero, Joseph Garcia, and Kimber Bonilla ("State Defendants") filed a motion to dismiss based on qualified immunity, and a corresponding motion to stay discovery. Docs. 53, 54. The State Defendants noted that McConnell opposed the stay of discovery. Doc. 54 at 1. McConnell's responses to GEO's discovery requests were due on October 25, 2016, but no responses were forthcoming, and McConnell did not seek an extension of time to respond or a

protective order. Doc. 64 at 1–2. On November 7, 2016—after the motion to stay was fully briefed—the Court issued its order staying discovery pending resolution of the State Defendants’ Motion to Dismiss Based on Qualified Immunity (Doc. 53). Doc. 63. On December 22, 2016, the Court denied the initial motion to compel without prejudice, and advised the parties that the motion could be renewed, if necessary, once the stay was lifted. Doc. 67. On August 23, 2017, Judge Herrera denied as moot the Motion to Dismiss Based on Qualified Immunity (Doc. 53), effectively lifting the stay. Doc. 79. On November 7, 2017, the Court held an initial Rule 16 Scheduling Conference, and set a deadline of November 21, 2017 for defendant GEO to renew its motion to compel. Doc. 95.

McConnell’s failure to respond to the renewed motion to compel constitutes consent to grant the motion. D.N.M.LR-Civ. 7.1(b). In his response to the initial motion to compel, McConnell argued that he should not have to respond to the discovery requests because judicial efficiency and economy were not served by requiring him to respond while the motion to stay was pending. Doc. 65 at 2. Given that the case is no longer stayed, these reasons no longer have any merit.

IT IS THEREFORE ORDERED that plaintiff Rick McConnell shall respond without objection to defendant GEO’s first set of requests for production no later than Friday, January 19, 2018. McConnell has missed the deadline for asserting any objections to the requests at issue, thereby waiving any potential objections.

IT IS FURTHER ORDERED that plaintiff Rick McConnell shall pay defendant GEO reasonable attorney’s fees for the costs incurred in bringing this renewed motion. *See* FED. R. Civ. P. 37(a)(5) (“If the motion is granted . . . the court must, after giving an opportunity to be heard, require the party . . . whose conduct necessitated the motion . . . to pay the movant’s

reasonable expenses incurred in making the motion, including attorney's fees.”). Counsel for GEO is directed to file an affidavit of expenses incurred in filing its renewed motion no later than January 19, 2018. McConnell may file objections to the affidavit of expenses within 14 days of GEO’s filing of the affidavit.



Laura Fashing
United States Magistrate Judge